

Remarks

This Amendment is submitted in response to the Office Action dated September 9, 2003. Claims 1-20 are pending in this application. Applicants have added new claim 21. Support for new claim 21 can be found throughout the specification, more particularly at page 9, lines 27-29. Applicants submit that no new matter is added by way of this Amendment, and Applicants respectfully request entry of the new claim.

The Office Action subjects the claims to a restriction. More specifically, the Examiner alleges that the claims are directed to eight (8) distinct inventions as follows: are directed to eight (8) distinct inventions as follows:

A) Group I (Claims 1, 2, 5, 6 and 17-20) drawn to a method of facilitating vascular growth by inhibiting EMAP II activity via a compound that binds to EMAP II;

B) Group II (Claims 1, 3, 5, 6 and 17-19) drawn to a method of facilitating vascular growth by inhibiting EMAP II activity via inhibiting EMAP II expression;

C) Group III (Claims 1, 4-6 and 17-19) drawn to a method of facilitating vascular growth by inhibiting EMAP II activity via administration of an EMAP II receptor antagonist;

* The Restriction Requirement alleges that claim 1 is directed to three patentably distinct inventions and further notes that if any one of inventions from Group I-III is elected, claim 1 will only be examined in-so-far as it pertains to the elected subject matter.

D) Group IV (Claims 7 and 8) drawn to a method of screening combinatorial library compounds that bind to EMAP II;

E) Group V (Claims 7 and 9) drawn to a method of screening protein or peptide compounds that bind to EMAP II;

* The Restriction Requirement alleges that claim 7 is directed to two patentably distinct inventions. If any one of inventions from Group IV or V is elected, claim 7 will only be examined in-so-far as it pertains to the elected subject matter.

F) Group VI (Claims 10 and 11) drawn to a method of screening combinatorial library compounds that bind to DNA encoding EMAP II;

G) Group VII (Claims 10 and 12) drawn to a method of screening oligonucleotide compounds that bind to DNA encoding EMAP II; and

* The Restriction Requirement alleges that claim 10 is directed to two patentably distinct inventions. If any one of inventions Group VI or VII is elected, claim 10 will only be examined in-so-far as it pertains to the elected subject matter.

H) Group VIII (Claims 13-16) drawn to a method of screening compounds that inhibit EMAP II expression.

In response to the Restriction Requirement, Applicants hereby elect Group VIII corresponding to claims 13-16 drawn to a method of screening compounds that inhibit EMAP II expression, with traverse.

Applicants traverse this restriction on the basis that the Patent Office has not demonstrated that the requirements for claim restriction have been met. In particular, it is stated in section 803 of the MPEP that two criteria for proper restriction of claims must be met: 1) The inventions must be independent and distinct as claimed, AND 2) there must be a serious burden on the examiner if restriction is required. The MPEP further states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicants respectfully submit that there is no evidence provided that it would be a serious burden to examine the claims of Groups IV-VIII claims together. Applicants note that Group IV and V (claims 7-9) are classified in class 435, subclass 7.1. Group VI (claims 10 and 11), VII (claims 10 and 12) and VIII (claims 13-16) are classified in class 435, subclass 6. Accordingly, Applicants respectfully request reconsideration of examining Groups IV, V, VI and VII along with elected Group VIII.

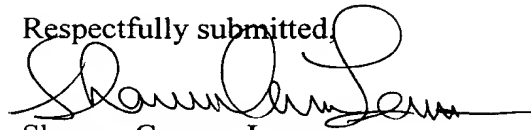
Conclusion

Applicants respectfully submit that this application is in condition for substantive examination, which action is respectfully requested. The Examiner is also encouraged to contact the undersigned directly if such contact will expedite the examination and allowance of the pending claims.

In re: Schwarz et al.
Serial No. 09/928,796
Filed: August 13, 2001
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The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,



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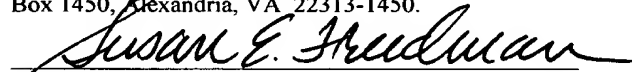
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Susan E. Freedman

Date of Signature: January 12, 2004